

**RECORDS MANAGEMENT COMMITTEE**  
City Manager's Conference Room, Eighth Floor  
400 Stewart Avenue, Las Vegas, Nevada  
CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.ci.las-vegas.nv.us>

**March 16, 2001**  
**1:30 p.m.**

**CALL TO ORDER:** City Clerk Ronemus called the meeting to order at 1:33p.m.

**ATTENDANCE:** Barbara Jo (Roni) Ronemus, City Clerk  
Doug Selby, Deputy City Manager  
Radford Snelding, City Auditor  
John Redlein, Assistant City Attorney  
Mark Vincent, Director, Finance and Business Services (Excused)  
Joseph Marcella, Director, Information Technologies  
Mary Ann Sosa, for Director, Public Works  
Sharon Kuhns, Records Administrator  
Ted Schnoor, Building and Safety Department  
Chris Peterson, Building and Safety Department  
Deeny Araujo, Deputy City Clerk

**ANNOUNCEMENT MADE RE COMPLIANCE WITH THE OPEN MEETING LAW - Meeting noticed and posted at the following locations:**

Downtown Transportation Center, City Clerk's Board  
Senior Citizens Center, 450 E. Bonanza Road  
Clark County Government Center, 500 S. Grand Central Pkwy  
Court Clerk's Bulletin Board, City Hall  
City Hall Plaza, Posting Board

(1:33)  
**1-57**

**BUSINESS:**

**A. APPROVAL OF FINAL MINUTES BY REFERENCE OF THE RECORDS MANAGEMENT COMMITTEE MEETING OF FEBRUARY 23, 2001**

Correction to Page 3 of Final Minutes fifth paragraph, changing Directors to directors.

**MARCELLA - Motion to APPROVE as amended - SELBY - seconded the motion – UNANIMOUS with Vincent excused**

(1:34)  
**1-87**

**B. REPORT AND POSSIBLE ACTION ON COMMENTS OF DEPARTMENT DIRECTORS ON THE CITY OF LAS VEGAS PUBLIC RECORDS ACCESS PROCEDURE, POLICY AND RESOLUTION.**

Chair Ronemus stated that comments were received from various departments in response to the query regarding the Procedure, Policy and Resolution draft. She asked Ms. Kuhns to summarize the comments

Ms. Kuhns listed the various concerns noted by Lesa Coder. One of the issues deals with copyrighting and her second opinion concerned the \$1.00 per page charge being too pricey. Ms. Kuhns explained that the definition of copyright has been incorporated in the Procedures. Ms. Kuhns stated that the copyright definition does not apply to public records. For clarification, she cited an excerpt from the definition that says "...NOT subject to copyright are common information, government publications, short phrases, live unrecorded performances, mere ideas." Ms. Kuhns also explained that the copyright applies to specific items. Ms. Coder suggested having a sentence in the Policy that defines copyright exclusion. Vice Chair Selby's response was in favor of a statement in the Policy that specified copyright material exclusion rather than a definition of copyright in the Procedures.

On the same matter, Vice Chair Selby was curious as to why engineers stamp their documents, plans, or blueprints with the copyright emblem. Assistant City Attorney Redlein stated that he does not believe that a document so marked, would preclude the adjacent property owner from obtaining a copy for the purpose of knowing what was being built next to him.

Ted Schnoor stated that all documents submitted by a registered design professional and received by their department are stamped copyright. This procedure is in accordance with the City Attorney's ruling. Chair Ronemus asked if copies could be made from these documents if requested as a public records request. Mr. Schnoor replied that copies could not be made unless written permission from the designer was obtained or unless under subpoena.

Assistant City Attorney Redlein did not dispute the procedures followed by the Building Department but did want an opinion regarding what right is being protected by the application of the copyright. In response, Mr. Schnoor explained that in the case of a copyrighted architectural plan, there may be elements that are exclusive or proprietary and this would prevent another architect from stealing a design. He also mentioned that there are disciplinary hearings for plagiarizing material because of public safety concerns. To further explain the copyright aspect, he spoke of designing a building for one site and providing the client with a copyright-stamped blueprint to use for maintenance and repair of the building. However, the copyright would disallow the client from applying it to another location to build the same structure.

With the emphasis on intent and use, Assistant City Attorney Redlein touched on the liability facet of duplicating copyrighted material. Using library material as an example, he concluded that copying material for the purpose of ensuring accuracy, yet giving credit to the author would not be an infringement; yet requesting a copy of a copyrighted document for the express purpose of stealing the author's ideas would be a definite violation.

Mr. Marcella inquired if there is a statute that says if material is stamped, it is public record. Chair Ronemus responded that as such, a citizen may insist that as a government office, with public records, he be given a copy as requested. When queried as to an individual's right to

review a copyrighted document versus copying it, Mr. Schnoor affirmed that they deal with these situations on a recurring basis. Although they do store plans and blueprints, the engineers and designers are not receptive to individuals requesting copies, because the design is their business and livelihood. Mr. Schnoor also shared situations where people come in and take pictures while reviewing material.

Chair Ronemus interjected by reminding committee members that somewhere either in the Policy section or in the Procedures segment, some notation needs to address the copyright issue. Chair Ronemus stated that since the purpose is to provide guidance for employees to deal with situations, she would recommend it be noted in the Procedures. She added another way to handle this would be to declare it an extraordinary situation and request a determination by the City Attorney.

Assistant City Attorney Redlein commented that he believes that a violation exists not with the individual who makes the copies but instead with the person who intends the wrongful use. That is the person against whom the copyrighter is protected. Mr. Marcella concurred with Assistant City Attorney Redlein's interpretation citing his own experience with software permissions that are granted to him from the vendor for the specific purpose of backup and recovery. Because he has specific guidelines he believes that the copyright law also has specific mandates. Assistant City Attorney Redlein stated that Mr. Marcella's situation is contractual. He further commented that because a document has a copyright symbol on it, he would hesitate to say that it is not a public record. Assistant City Attorney Redlein explained that further research and discussion needs to take place and Chair Ronemus suggested Ms. Kuhns work with him on this matter.

Vice Chair Selby addressed Mr. Rigglesman asking whether he doesn't have copyright notes on the bottom of their programs. Mr. Rigglesman confirmed that their programs do state that programming is the property of Channel 2 and cannot be used without consent. However, they have no control over viewers taping the programs unless, of course, they try to sell it. Chair Ronemus asked whether a citizen could come in and request a copy of the tape. Mr. Rigglesman confirmed they could but for a fee.

Moving on to other comments, Ms. Kuhns explained that the Municipal Court's substantiated the fact that their court records are under the control of the Nevada Supreme Court System and established laws, therefore any of the items in the Policy and Procedures would not apply to them. Assistant City Attorney Redlein queried whether any of the provisions covered by the Nevada Supreme Court System referenced the reproduction of records. He suggested looking into this for future reference.

Ms. Kuhns discussed Mr. Rigglesman's concerns pertaining to appealing the policy on reproduction costs. Mr. Rigglesman's concern focused on the varied rates charged by some departments and he believes to ensure consistency, if every department visibly posted the policy, it will resolve this matter. Chair Ronemus indicated that an addition will be made to the section relating to Procedure For Release of Public Records, and shall read, **All public records, and all departmental fee schedules must be posted.**

Another response addressed the number of free copies provided the media. Ms. Kuhns mentioned that one of the PIO's in the Planning Department spoke of inequality, wherein the media is provided with free copies, but not so the public. Chair Ronemus stated that she also questioned this practice; however, the intent of furnishing free copies to the media is for the purpose of public distribution. Assistant City Attorney Redlein asked for confirmation that situations as such would be handled at the director's level. Because each department has its own PIO, who does not fall under Mr. Rigglesman's authority, Chair Ronemus reminded that any deviations must be presented to the Records Management Committee for approval. Ms. Kuhns repeated the City Manager's position to standardize fees throughout the City.

Vice Chair Selby suggested **all PIO's contact Mr. Rigglesman for a determination**. He also commented that immediate access to records is available at all times, but copying can occur at a later point. Ms. Kuhns' suggestion that this be incorporated into the Procedures was agreed upon by Vice Chair Selby. He also commented that this should be a regular practice and would definitely ensure consistency.

Chair Ronemus explained that in discussion with City Manager Virginia Valentine on February 26<sup>th</sup>, she was asked to define Confidential Records and to explain how the issue would be addressed in the Procedures. Although this topic is noted in the Draft of the Procedures, it does not specifically address instructions to the employee on how to treat the request for Confidential Records. Ms. Kuhns explained that any problems or questions that arise should be directed to the City Attorney for an opinion.

Vice Chair Selby shared his opinion about annotating in the Policy and Procedures that personnel records for the time being be considered confidential inasmuch as the matter will probably resurface. Assistant City Attorney Redlein said it might be a good action. Chair Ronemus suggested a list of confidential-type records, but Assistant City Attorney Redlein interjected that it would probably be minuscule. He also mentioned that many private companies treat personnel records as confidential whereas the government custodians are not as free to declare it confidential. He felt that if the City Attorney is willing to go to court over these types of requests, it might be feasible to annotate this at least to give the City employee some direction. Ms. Kuhns confirmed that there is already a notation in the Policy. Assistant City Attorney Redlein suggested that somewhere on page 2 under Procedure for Release of Public Records, a paragraph should be added to say, **If there is any question, reference the Policy Manual to ensure the item requested is indeed a public record and not confidential.**

Vice Chair Selby questioned the confidentiality of credit card numbers. Assistant City Attorney Redlein commented that there is a provision, "Expectation of Privacy", that applies to social security numbers and medical records. There is no confidentiality law governing credit card numbers.

Another issue raised was the question of recouping costs for postage. It was affirmed that most requests are picked up or electronically provided. Any documents not picked up within two weeks are recycled. Members agreed that this type of situation be left to the discretion of department directors.

Concerns regarding subpoena requests arose. Incorporating this item on a standard request form was considered unfeasible, inasmuch as not many departments receive this type of request.

The question of handling Enterprise Fund requests was discussed as currently most revenue goes into the General Fund. Chair Ronemus stated that prior efforts were made to segregate the monies, but it proved to be too cumbersome. Within the Building and Safety Department, duplication fees are charged as listed on the fee schedule for routine requests. However the majority of other requests received are classified as extraordinary, ranging in charges of \$100 to \$1,000 per request. Assistant City Attorney suggested adding a one liner to the Fees Section that reads, **includes records from any Enterprise Fund Division requiring material to be picked up and paid for at that division.** Chair Ronemus also classified most extraordinary requests as falling into the Enterprise Fund category due to the amount of labor hours and extent of research required to provide the material.

With feedback received concerning charges for video tapes, audio tapes, and CDs, Ms. Kuhns commented that a type of fee establishment should be determined, taking into consideration the actual cost of producing the tapes. Mr. Riggleman shared that his fees are based on the time involved complying with specific requests for information, tracking and extracting that information. He also said his department participates in an exchange program with the news media, where information is shared or provided at no cost.

In conclusion because no distinction was made in the fees schedule to include the cost of audio tapes, video tapes, or CDs, it was agreed that **all such requests be submitted, along with supporting documentation to the Records Management Committee for discussion and resolution.**

**REDLEIN - Motion to APPROVE incorporating all additions or appropriate changes - MARCELLA - seconded the motion - UNANIMOUS with Vincent excused**

(1:35 - 2:46)

**1-127**

**C. DISCUSSION AND POSSIBLE ACTION REGARDING THE EFFECT OF NRS CHAPTER 241 UPON NRS CHAPTER 239.**

Assistant City Attorney Redlein provided backup material to support his quandary relating to a request from Jim DiFiore pertaining to a particular licensing situation. Assistant City Attorney Redlein referenced the confidential books that are compiled by Metro Special Investigations Division that are provided to the City Council, City Manager and City Attorney to consider privileged license applications. These books depict suitability, financial status, and include background information.

He stated that there is a provision in the Open Meeting Law that suggests that if this material is used as supporting documentation for determination, it should be treated as public record. However, at the bottom of this documentation there is a Confidential notation and he agreed that

some of the information is declared confidential such as criminal history and financial information. He questioned whether or not these books should be retained in case of a potential lawsuit.

Mr. Marcella asked if some of the information are confidential and some are not, does a determination have to be made to decide what is considered public information. Assistant City Attorney Redlein commented that the Public Meeting Law exception considers all materials confidential. Mr. Marcella inquired if by keeping the documents and considering them confidential, if used for court purposes this would be the only way the information could be released. Chair Ronemus explained that all City Council minutes and backup material are considered public record with the exception of minutes from Closed Sessions and financial records for Silver State Disposal.

It was finally decided to maintain the present procedure, to consider the information contained in the book as confidential and to contact Metro to confirm that they do retain these records permanently.

**No Motion required on this item.**

(2:46 - 3:02)

**1-2825/2-1**

**D. INFORMATIONAL MATTERS FOR FUTURE RECORDS MANAGEMENT COMMITTEE AGENDAS.**

Mr. Snelding requested discussion regarding filling a vacant position on a committee by the City Auditor. He believes this should be a non-voting position and that responsibilities should be strictly advisory to eliminate the potential for making a decision and then auditing that decision.

There was no further discussion.

**CITIZENS PARTICIPATION:**

None.

**ADJOURNMENT:**

**SNELDING - Motion to ADJOURN - SOSA - seconded the motion - UNANIMOUS with Vincent excused**

The meeting adjourned at 3:04 p.m. (2-60)

/da